

29 Del. C. § 8735. Division of Professional Regulation.

(h) The following procedure shall be followed for the investigation of complaints against licensees of boards, agencies and commissions listed in subsection (a) of this section and otherwise regulated by the Division of Professional Regulation:

(1) Any person who desires to file a complaint against any licensee regulated by a board, commission or agency covered pursuant to this chapter must do so in writing.

(2) The complaint shall state the name of the licensee and sufficient facts as determined by the Division which allegedly constitute the basis for the written complaint. If any of these elements are missing in the written complaint, the Division of Professional Regulation may, in its discretion, sua sponte dismiss the complaint.

(3) The complaint shall be filed with the Director of the Division. The Director shall, within 15 days of the receipt of the complaint, fill out a complaint card, assign a complaint number and log the complaint in the Division of Professional Regulation's records. A record of the complaint shall be kept with the Division for a period of 5 years. The Division shall also assign an investigator employed by the Division to investigate the complaint after this procedure is complied with.

(4) The Division of Professional Regulation shall thereafter mail a copy of the complaint to the licensee named in the complaint at the licensee's address of record in the Division's files. The named licensee, if the licensee chooses, may file an answer to the complaint within 20 calendar days with the Division.

(5) The Division shall, thereafter, provide a copy of the complaint to the board, commission or agency which regulates the named licensee in the complaint. The board, agency, or commission shall maintain a record of the same.

(6) At the board, agency or commission's next regularly scheduled meeting, it may assign a board member to assist the Division with the investigation of the complaint. This board member shall maintain strict confidentiality of the facts of the investigation and shall not discuss any issue of fact or law of the investigation with any other board member or the public. In addition, if a hearing is held, the investigating board member shall excuse himself or herself as a board member but may otherwise assist in the presentation of the complaint before the board.

(7) The investigator assigned by the Division of Professional Regulation shall direct the investigation of the complaint but shall maintain contact with the

investigating board member regarding the investigation. The investigator shall issue a final report at the conclusion of the investigator's investigation. The report shall list the evidence reviewed, the witnesses interviewed and cite the law or regulation alleged to have been violated and the facts to support such finding. The report shall contain a written recommendation to either prosecute or dismiss the complaint approved by the Director of the Division of Professional Regulation.

(8) The investigator may forward the complaint and written report to the Department of Justice for review by a Deputy Attorney General. If deemed warranted, the Deputy Attorney General may file a formal written complaint against the named licensee with the board, commission or agency which regulates the licensee and request a hearing before the board, commission or agency. If the Deputy Attorney General assigned to the case recommends not to prosecute or otherwise not file a formal complaint, the Deputy Attorney General shall notify the Director of Professional Regulation in writing.

(9) If the Deputy Attorney General assigned to the case recommends dismissal or no prosecution, the Division shall, thereafter, dismiss the complaint which shall constitute a final order. The Division shall, thereafter, file a copy of the Attorney General's recommendation and an investigator's report with the board, commission or agency which regulates the licensee for informational purposes only.

(10) The Division Director or the Division Director's designee is empowered to issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of the complaint and/or for a public hearing on the complaint. If the party or person subpoenaed fails to comply, the Division may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.

(11) The complaint procedure set forth in this subsection does not apply to complaints against Gaming Control Board licensees. The complaint procedure for such licensees shall be as set forth in the Gaming Control Board regulations.